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In re Application of
Carel J. L. Van Driel
Application No. 10/780,473
Filed: February 17, 2004
Attorney Docket No. PHN 16-613A
Title: COMMUNICATION NETWORK
USING DIFFERENT TRANSMISSION
PROPERTIES

OFFICE OF PETITIONS

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.181(A)

This is a decision on the renewed petition pursuant to 37 C.F.R. §1.181(a), filed on May 30, 2007.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notification of Non-Compliant Appeal Brief, mailed August 3, 2006, which set a period for reply of one month. No response was received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on September 4, 2006. A notice of abandonment was mailed on October 12, 2006.

PROCEDURAL HISTORY

The original petition was filed on January 3, 2007, and was dismissed via the mailing of a decision on April 2, 2007.

The decision on the original petition set forth:

The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that a response to this communication was submitted on September 5, 2006 (September 4, 2006 fell on a federal holiday). The

electronic file has been reviewed, and the response which was purportedly submitted on September 5, 2006 has not been located.

Petitioner has submitted a copy of this response, and it is noted that it contains a certificate of facsimile transmission dated September 5, 2006. Certificate of facsimile transmission practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous mailing and provided an additional copy of the previously submitted correspondence. However, it is noted that the certificate of mailing was executed by one Moira Anderson, and it does not appear that Petitioner has included a statement from this individual. 37 C.F.R. §1.8(b)(3) requires the inclusion of a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission.

ANALYSIS

With this renewed petition, Petitioner has submitted a statement of facts from Ms. Anderson, along with a copy of the response of September 5, 2006.

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a complete response was timely submitted, pursuant to 37 C.F.R. § 1.8.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the supplemental Appeal Brief that was presented with the present petition can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



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